

Unfortunately, neither the respondent and its insurance carrier nor the claimant filed a letter or brief with the Appeals Board within the allotted time. Therefore, the Board does not have the benefit of their arguments.

The only issue before the Board on this appeal is whether the Judge erred by awarding claimant additional treatment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, the Appeals Board finds:

1. The Order should be affirmed.
2. Claimant injured her back on February 9, 1998, while working for the respondent. By Award dated July 23, 1999, claimant was granted workers compensation benefits for that accident.
3. On August 23, 1999, claimant filed an Application for Preliminary Hearing with the Division of Workers Compensation. At the same time, claimant filed an Application for Additional Medical Treatment in which claimant requested chiropractic treatment.
4. Claimant now requests chiropractic treatment from Dr. Robert W. Warner. After listening to claimant's testimony and reviewing the medical evidence presented, Judge Avery granted claimant's request. The Appeals Board agrees with that conclusion, which is supported by Dr. Warner's opinion. In a February 2000 letter to claimant's attorney, Dr. Warner stated:

Per your request I have read a report generated by a Dr. Warta from an IME he performed on 1-5-00. He agrees with me that further physical medicine is palliative because the patient is at MMI. I do however disagree with his statement that further chiropractic care is not warranted because this is a musculoligamentous soft tissue injury. As I stated in my report of 1-5-99 **the patient's condition is of a chronic nature and she will experience exacerbations due to activities of normal daily living.** When these flare-ups occur she will benefit from physical medicine and[/]or analgesics to keep her symptoms to a minimum. Without occasional treatment (of any kind) the patient's pain and muscle spasm will keep her functioning at a much lower level than would be otherwise. The patient has been instructed in home exercises to keep the exacerbations to a minimum, however when they do occur **I see no reason why this patient should be denied treatment that has proved beneficial in the past to keep her functioning at a higher level and in a lot less pain and more comfortable in her work and daily life.** (Emphasis added.)

The Board is aware that respondent and its insurance carrier obtained an opinion from another chiropractor, Dr. Ron Warta, that additional chiropractic treatment is not medically warranted. But Dr. Warta's opinion appears to be primarily based upon the fact that the treatment would only decrease claimant's symptoms. In this instance, Dr. Warner's opinions are the more persuasive.

5. The Workers Compensation Act requires the employer to provide such medical services that may be reasonably necessary to cure and relieve an injured employee from the effects of an injury. The Act provides:

It shall be the duty of the employer to provide the services of a health care provider, and such medical, surgical and hospital treatment, including nursing, medicines, medical and surgical supplies, ambulance, crutches, and apparatus, and transportation to and from the home of the injured employee to a place outside the community in which such employee resides, and within such community if the director in the director's discretion so orders, including transportation expenses computed in accordance with subsection (a) of K.S.A. 44-515 and amendments thereto, **as may be reasonably necessary to cure and relieve the employee from the effects of the injury.**¹ (Emphasis added.)

Therefore, chiropractic treatment that reduces symptoms caused by a work-related accident may be granted when that treatment "relieve[s] the employee from the effects of the injury."

WHEREFORE, the Appeals Board affirms the February 17, 2000 Order entered by Judge Avery.

IT IS SO ORDERED.

Dated this ____ day of March 2000.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Chris Miller, Lawrence, KS
Jeff K. Cooper, Topeka, KS
Brad E. Avery, Administrative Law Judge
Philip S. Harness, Director

¹ K.S.A. 1997 Supp. 44-510(a).